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OLC 72-0469

7 April 1972

MEMORANDUM FOR THE RECORD

SUBJECT: Conversation with Senate Finance Committee Staff Regarding
a Bill to Exclude From Gross Income Certain Payments
Made to Military Personnel and Civilians While They Are
Prisoners of War or in a Missing Status

1. Mr. Thomas Vail, of the Senate Finance Committee staff, called to say the Committee would probably be acting on the tax bill (H. R. 9900) which we had expressed an interest in, and it would be well for me to meet with Mr. Robert Willian, of the Committee staff, today. I made an appointment with Mr. Willian and talked with him about our interest in this legislation which would provide a tax benefit to military and civilian personnel who are missing, imprisoned, etc., as a result of the Vietnam conflict.

2. At the outset I queried Mr. Willian as to whether the Committee plans to make any changes in H. R. 9900 as it was passed by the House and referred to the Senate. Mr. Willian said they planned to report it favorably to the Senate floor exactly as it passed the House. In response to his question about the nature of our interest, I told him we would have preferred to see the bill passed as it was originally drafted without limiting it to the Vietnam conflict. I told him from our standpoint it would seem to have made sense, if permanent legislation was enacted, to have a bill which could apply to future circumstances like the Vietnam conflict as well, avoiding the necessity for separate legislation action in each instance. Mr. Willian agreed with this in principle and said someone ought to propose this but he added that both the Administration and the Congress had clearly demonstrated a desire to make the present legislation extremely limited geographically while permitting broad applicability to individual cases which occurred within the geographic area.

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3. Noting the sensitivity which is attached to the cases of Robert Fecteau and John Downey, I expressed our desire to apply the principle of H.R. 9900 to these cases if it were possible. Mr. Willian remarked that he would have thought the Agency had sufficient latitude to take care of cases of this sort under its own legislation. Without indicating what our intentions might be in this direction, I commented that whenever possible the Agency likes to follow general provisions of law without having to rely on the Director's unique authority unless it was absolutely necessary. I told him that clearly we did not want to be the "tail wagging the dog" in this situation and recognized that it was not feasible to amend the bill, especially at this stage, unless the Committee had some idea of making a change which would permit an interpretation which would accomplish our objectives. Mr. Willian was most cordial but felt there was no leeway for their Committee to change the language of the bill. He did say, however, that if it was at all possible they would try to liberalize the language of their Committee report even further than the House report language.



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